

TOWNSHIP ORGANIZATION LAW

OF THE

STATE OF MISSOURI,

COMPILED FROM THE REVISED STATUTES OF 1899 AND LAWS OF
1901 AND 1903.

BY

ALBERT O. ALLEN, STATE AUDITOR.

Printed for Distribution Among Revenue Officers in Counties Under Township
Organization.



JEFFERSON CITY, MO.:

TRIBUNE PRINTING COMPANY, STATE PRINTERS AND BINDERS.



352.0778

M69t

1903

17 May '13 M.B.

PREFACE.

This pamphlet contains the Township Organization law of the State of Missouri, as embodied in the Revised Statutes of 1899, and revised from the Laws of 1901 and 1903, and is printed for the information of revenue officers in counties under township organization.

ALBERT O. ALLEN,
State Auditor.

City of Jefferson, July 1, 1903.

Ex

17 Jan 13 Mo. hist. Soc.

TOWNSHIP ORGANIZATION.

CHAPTER 167.

TOWNSHIPS.

SECTION

10223. How laid off and subdivided.

SECTION

10224. Name and description to be recorded and transmitted to secretary of state.

SEC. 10223. How laid off and subdivided.—Each county court may divide the county into convenient townships, and, as occasion may require, erect new townships, subdivide townships already established, or better township lines. (R. S. 1889, § 8421—a.)

SEC. 10224. Name and description to be recorded and transmitted. The court shall, within thirty days after establishing any township, transmit to the office of the secretary of state a description of such township, containing the name and boundaries thereof, and shall cause the clerk to enter such description of record. (R. S. 1889, § 8422.)

CHAPTER 168.

TOWNSHIP ORGANIZATION.

ARTICLE 1—Proceedings necessary to adopt township organization.

II—Powers and rights of townships as bodies corporate.

III—Alteration of the boundaries of townships.

IV—Method of conducting township elections.

V—Qualification and tenure of office.

VI—Vacancies in office and manner of filling them.

VII—Township trustees and their duties.

VIII—Township clerks and their duties.

IX—Township board of directors and their duties.

X—Compensation of township officers.

XI—County treasurer ex officio collector, his duties.

XII—Revenue—assessment and collection of.

XIII—Special provisions.

XIV—Roads and highways, bridges.

ARTICLE I.

PROCEEDINGS NECESSARY TO ADOPT TOWNSHIP ORGANIZATION.

SECTION

10225. Voters may vote for or against township organization.
 10226. Question submitted—form of ballot.
 10227. Returns, how proceeded with.

SECTION

10228. Organization to go into operation, when.
 10229. Township election, when to be held.

SEC. 10225. **Voters may vote for or against township organization.**—At any general election that may be holden in the several counties of this state, the qualified voters in any county may vote for or against township organization, as provided by this article. (R. S. 1889, § 8424—b.)

SEC. 10226. **Question submitted—form of ballot.**—The county court, on petition of one hundred legal voters of said county, shall cause to be submitted to the voters of the county the question of township organization under this article, by the ballot, to be written or printed, “for township organization,” or “against township organization,” to be canvassed and returned in like manner as votes for state and county officers. (R. S. 1889, § 8425—c.)

SEC. 10227. **Returns, how proceeded with.**—The clerk of the county court shall cause an abstract of the returns of said election to be made out and certified as in election for state and county officers, record the same at length upon the records of the county court of the county, and shall certify the same to the secretary of state. (R. S. 1889, § 8426—d.)

SEC. 10228. **Organization to go into operation, when.**—If it shall appear by the returns of said election that a majority of the legal voters of the county voting upon that proposition at said election are for such organization, then the county so voting in favor of its adoption shall be governed by and subject to the provisions of this chapter, on and after the last Tuesday in March next succeeding. (Laws 1897, p. 234; amended Laws 1903, p. 272—e.)

SEC. 10229. **Township elections, when to be held.**—The clerk of the county court shall thereupon make out notices for each township, designating the time and place for holding the first township election in such township, which shall be holden on the last Tuesday in March next

(b) Election, ballots. 74 Mo. 258. Courts may take judicial notice of the law, but not of its adoption. 72 A. 431.

(c) 74 Mo. 258; 57 A. 650; 76 A. 490.

(d) 57 A. 650.

(e) 92 Mo. 428. To adopt township organization, a majority of all those voting at the election must be obtained. 138 Mo. 187.

thereafter, and shall deliver such notices to the sheriff of the county, who shall cause the same to be posted up in not less than three of the most public places in the township, and not less than fifteen days before the last Tuesday in March; and the township clerk shall post up notices of all subsequent elections, as directed by the township board of directors. (R. S. 1889, § 8428—f.)

ARTICLE II.

POWERS AND RIGHTS OF TOWNSHIPS AS BODIES CORPORATE.

SECTION

10230. Powers of townships.

10231. Townships have no powers except those given by law.

SECTION

10232. Proceedings against township—conveyances.

SEC. 10230. Powers of townships.—Each township, as a body corporate, shall have power and capacity: First, to sue and be sued, in the manner provided by the laws of this state; second, to purchase and hold real estate within its own limits for the use of its inhabitants, subject to the power of the general assembly; third, to make such contracts, purchase and hold personal property, and so much thereof as may be necessary to the exercise of its corporate or administrative powers; fourth, to make such orders for the disposition, regulation or use of its corporate property as may be conducive to the interest of the inhabitants thereof; fifth, to purchase at any public sale, for the use of said township, any real estate which may be necessary to secure any debt of said township or the inhabitants thereof, in their corporate capacity, and to dispose of the same. (R. S. 1889, § 8429—g.)

SEC. 10231. Townships have no powers except those given by law.—No township shall possess any corporate powers, except such as are enumerated or granted by this chapter, or shall be specially given by law, or shall be necessary to the exercise of the powers so enumerated or granted. (R. S. 1889, § 8430.)

SEC. 10232. Proceedings against township—conveyances.—All acts or proceedings by or against a township in its corporate capacity shall be in the name of such township and county; but every conveyance of land within the limits of such township, made in any manner for the use and benefit of its inhabitants, shall have the same effect as if made to the township by name. (R. S. 1889, § 8431.)

(f) 138 Mo. 187.

(g) 68 Mo. 78; 123 Mo. 72.

ARTICLE III.

ALTERATION OF THE BOUNDARIES OF TOWNSHIPS.

SECTION

10233. Township boundaries and new townships, how changed and constituted.
10234. Duties of county clerk in case new township is created.
10235. Proceedings in case of neglect or refusal to organize.
10236. On failure of appointed officers to qualify, townships may be annexed.

SECTION

10237. Partition of property of divided township, how made.
10238. Meetings to carry this article into effect, how called.
10239. Debts of divided township, how charged.
10240. Justices of the peace and constables not affected by township changes.

SEC. 10233. Township boundaries and new townships, how changed and constituted.—The county court of each county shall have power to alter the boundary of townships and to increase or diminish their number, as follows, viz.: Upon the petition of one-fourth of the voters of the township or townships proposed to be altered, the county court shall submit the proposed alteration to the qualified voters thereof at any regular township election, by giving at least thirty days' notice thereof to such township or townships, in the usual manner of giving election notices; and if such alteration shall be ratified by a majority of two-thirds of the votes cast by the voters affected thereby, then such alteration shall be confirmed by the county court, and each township shall be named in accordance with the expressed wishes of its inhabitants. (R. S. 1889, § 8432—h.)

SEC. 10234. Duties of county clerk in case new township is created.—The county clerk shall, within thirty days after the county court has established any new township, or changed the boundary lines of any or all the townships in their respective counties, transmit to the secretary of state, who shall keep a record of the same, an abstract of such division or change, giving the bounds of such townships and the name designated, and said county clerk shall record, in a book kept for that purpose, a description of each township as fully as in such report to the secretary of state. (R. S. 1889, § 8433.)

SEC. 10235. Proceedings in case of neglect or refusal to organize. In case any township in any county in which township organization has been or may hereafter be adopted, shall refuse or neglect to organize and elect township officers at the time required by law for holding township elections, it shall be lawful for any twelve householders of the township to call a township meeting for the purposes aforesaid, by posting up notices in five public places of said township, giving at least ten days notice

of such meeting, setting forth the time, place and object of such meeting. And the electors, when assembled by virtue of such notice, shall have all the powers conferred upon them at the regular township election. In case no such notice shall be given as aforesaid, within thirty days after the time for holding the regular township elections, the county court shall, upon the affidavit of any freeholder of said township, filed in the office of the county clerk, setting forth the facts, proceed at any regular or special session of the court to appoint the necessary officers for such township, and the persons so appointed shall hold their offices until others are chosen or appointed in their places, and shall have the same powers and be subject to the same duties and penalties as if chosen by the electors of the township. (R. S. 1889, § 8434.)

SEC. 10236. On failure of appointed officers to qualify, townships may be annexed.—Whenever it shall be made to appear to the county court that the township officers appointed by them, as provided in the foregoing section, shall have failed to qualify as required by law, so that such township cannot become organized, the county court may annex such township to any adjoining township, and said township so annexed shall thereafter constitute a part of said adjoining township, unless changed by the county court under the provisions of this chapter. (R. S. 1889, § 8435.)

SEC. 10237. Partition of property of divided township, how made. When a township, seized of real estate, shall be divided into two or more townships; the township trustees and assessors of the several townships constituted by said division shall meet as soon as may be after the first township election subsequently held in such townships, and when so met shall have power to make such agreement concerning the disposition of such township property, and the division thereof, as shall be equitable, and to take all measures and to execute all conveyances necessary to carry such agreement into effect. (R. S. 1889, § 8436.)

SEC. 10238. Meetings to carry this article into effect, how called. Whenever a meeting of the township trustees and assessors of two or more townships shall be required to carry into effect the provisions of this article, such meeting may be called by either of said township trustees; but the township trustees calling the same shall give at least three days' notice, in writing, to all of the other officers, of the time and place at which such meeting is to be held. (R. S. 1889, § 8437—i.)

SEC. 10239. Debts of divided township, how charged.—Debts owing by a township so subdivided or altered shall be apportioned in the

(i) Township trustee—payment of warrant. 72 Mo. 377.

same manner as personal property of such township, and each township shall be thereafter charged with its share of such debts, according to such apportionment. (R. S. 1889, § 8438.)

SEC. 10240. **Justices of the peace and constables not affected by township changes.**—No change or alteration of the boundaries of a township shall vacate the office of any justice of the peace elected and residing therein, but such justice shall be a justice of the township into which he may be thrown by such change or alteration, and shall hold his office for the term for which he was elected. Constables shall also be subject to the provisions of this section. (R. S. 1889, § 8439.)

ARTICLE IV.

METHOD OF CONDUCTING TOWNSHIP ELECTIONS.

SECTION

- 10241. Elections, when and where held,
- 10242. Officers to be chosen.
- 10243. Additional justices may be elected, when.
- 10244. Elections to conform to general election law.
- 10245. Qualification of voters.
- 10246. Canvass of votes and disposition of poll-books.

SECTION

- 10247. Township clerk to transmit list of officers elect to county clerk.
- 10248. Township clerk to notify persons elected.
- 10249. Townships to be election precincts—judges of elections—clerks of elections.

SEC. 10241. **Elections, when and where held.**—The citizens of the several townships in all counties having adopted the township organization law of this state, who are qualified by the constitution and laws of this state to vote at general elections, shall assemble biennially on the last Tuesday in March at their usual place of voting, or at such place in their respective townships as they may have previously agreed upon, for the purpose of electing township officers and such other officers and transacting such other business as may be necessary. (R. S. 1889, § 8440—j.)

SEC. 10242. **Officers to be chosen.**—There shall be chosen at the biennial election in each township one trustee, who shall be *ex officio* treasurer of the township, one township collector, and one township clerk, who shall be *ex officio* township assessor, one constable, two members of the board, and two justices of the peace: *Provided*, the same persons may be elected members of the board and justices of the peace, at the same election, and hold both offices, also the same person may be elected constable and collector at the same election and hold both offices at the same time, by taking the proper oath of each office and giving the bond required by law. (R. S. 1889, § 8441, amended—k.)

(j) Election returns, neglect of clerk. 63 A. 460.

(k) 78 Mo. 600.

SEC. 10243. Additional justices may be elected, when.—In all townships having a population of over two thousand inhabitants, it shall be lawful for the qualified voters thereof to elect an additional justice of the peace for every two thousand inhabitants until the population reaches six thousand, after which the number of justices shall not be increased. Said additional justices shall be elected and commissioned and shall have the same powers and perform like duties as other justices of the peace have and perform by law. (R. S. 1889, § 8442.)

SEC. 10244. Elections to conform to general election law.—On the day of the township election the polls shall be opened between seven and eight o'clock a. m. and be kept open until six o'clock p. m. by the judges of the election, and when so opened the electors of the township shall have to elect all officers to be chosen at said election. Said officers shall be chosen by ballot. Each ballot shall contain the name of every officer or measure voted for, written or printed on the face of such ballot, and the name of the office for which the persons voted for are intended to be chosen, which ballot shall be folded so as to conceal the names of the persons voted for; where the names of two or more persons appear on any ballot for the same office, such ballot shall be rejected by the judges in canvassing the votes, only as to the persons erroneously voted for. Said township election shall in all things conform to the general law concerning elections for state and county officers, so far as the same is consistent with the provisions of this chapter. (R. S. 1889, § 8443—1.)

SEC. 10245. Qualification of voters.—No person shall be a voter at any township election unless he be a qualified voter at general elections, and has been an actual resident of the township in which he offers to vote for sixty days next preceding such election. (R. S. 1889, § 8444.)

SEC. 10246. Canvass of votes and disposition of poll-books.—The votes shall be opened and canvassed according to the laws governing general elections for state and county officers, and, when completed, the poll-books shall be signed by the judges and clerks of election, and, together with the ballots, shall be filed in the office of the township clerk within two days after such election. (R. S. 1889, § 8445.)

SEC. 10247. Township clerk to transmit list of officers elect to county clerk.—The township clerk shall transmit to the county clerk, to be filed in his office, a list of the names of the township officers so elected, within five days after such election shall have been held. (R. S. 1889, § 8446.)

SEC. 10248. Township clerk to notify persons elected.—The township clerk shall, within ten days after such township election, transmit to each person elected to any township office a notice of his election.

In case two or more persons shall receive an equal number of votes for the same office, the question of which shall be entitled to the office shall be decided between them by lot, under the direction of the township clerk. (R. S. 1889, § 8447.)

SEC. 10249. **Townships to be election precincts—judges of election.**—Each township acting under township organization may be divided into as many election precincts by the county court as the court may think the convenience of the electors requires; and the judges of all elections held for township purposes shall be appointed by the township board; but if said board should fail to appoint judges, or if any of the judges appointed should fail or refuse to serve, or not be present by eight o'clock on the day of election, then the electors present shall have power to choose from their number men to act as said judges. The judges of election shall have power to appoint two clerks of said election. The judges and clerks shall be sworn and the election conducted in like manner as elections for state and county officers, except as provided in this chapter. (R. S. 1889, § 8448.)

ARTICLE V.

QUALIFICATION AND TENURE OF OFFICE.

SECTION

- 10250. Eligibility to office.
- 10251. Officers to take oath.
- 10252. Elected candidates to file acceptance.
- 10253. Treasurer and collector to give bond.
- 10254. Constable to take oath and give bond.

SECTION

- 10255. Constable's bond to be filed.
- 10256. Penalty for refusal to serve by any one appointed or elected to office.
- 10257. Duties of outgoing and incoming officials.
- 10258. Same.

SEC. 10250. **Eligibility to office.**—No person shall be eligible to any township office unless he shall be a qualified voter and a resident of such township. (R. S. 1889, § 8449.)

SEC. 10251. **Officers to take oath.**—Every person chosen or appointed to the office of township trustee and *ex officio* treasurer, member of the township board, township collector, or township clerk, and *ex officio* township assessor, or constable before he enters on the duties of his office and within ten days after he shall be notified of his election or appointment, shall take and subscribe before some justice of the peace, such oath or affirmation as is prescribed by law. (R. S. 1889, § 8450, amended.)

SEC. 10252. **Elected candidates to file acceptance.**—Such person shall, within ten days thereafter, cause such certificate, together with his acceptance of the office, to be filed in the office of the township clerk; his neglect or refusal so to do shall be deemed a refusal to serve. (R. S. 1889, § 8451.)

SEC. 10253. Treasurer and collector to give bond.—Every person elected or appointed to the office of township trustee and *ex officio* treasurer, before he enters on the duties of his office and within ten days after his election or appointment, shall execute and deliver to the township clerk a bond with one or more sureties, to the satisfaction of the township clerk, payable to the township board, in double the amount of all the township funds, including school moneys, that may come into his hands; and every such bond, when deposited with the township clerk as aforesaid, shall constitute a lien upon all the real estate within the county belonging to such trustee and *ex officio* treasurer at the time of filing thereof, and shall continue to be a lien until its conditions, together with all costs and charges which may accrue by reason of any prosecution thereon, shall be satisfied. The township collector shall, before he receives the tax-books, give bond and security to the state, to the satisfaction of the county court, in a sum at least double the amount of all the revenue to be collected by him for any one year, including school taxes; such bond shall be executed in duplicate; one part thereof shall be deposited and recorded in the office of the clerk of the county court, and the other part shall be transmitted by the clerk to the state auditor. The conditions of such bond shall be that he, the said collector, will faithfully and punctually collect and pay over all state, county, township and other revenue, including school taxes, that may become due and collectible during the period for which such collector shall be elected or appointed; and that he will in all things faithfully perform all the duties of the office of township collector according to law. (R. S. 1889, § 8452—m.)

SEC. 10254. Constable to take oath and give bond.—Every person chosen or appointed to the office of constable, before he enters upon the duties of his office, and within ten days after he shall be notified of his election or appointment, shall take and subscribe before some justice of the peace of said township the oath of office prescribed by law, and shall execute, with two or more sureties, an official bond, payable to the township trustee, and to be approved by the township board, which bond shall be conditioned for the faithful discharge of all his official duties. (R. S. 1889, § 8453—n.)

SEC. 10255. Constable's bond to be filed.—The township trustee shall, when the approval of the township board of directors shall be indorsed on said bond, cause the same to be filed in the office of the township clerk; and a copy of such bond, certified by the township clerk, shall be presumptive evidence in all courts of this state of the execution thereof by such constable and sureties. (R. S. 1889, § 8454.)

(m) 45 A. 614.

(n) 70 Mo. 228; 94 Mo. 162.

SEC. 10256. Penalty for refusal to serve by any one appointed or elected to office.—Any person chosen or appointed to fill any township office, except that of justice of the peace, who shall refuse to serve, shall forfeit to the township the sum of five dollars for the use of the contingent fund, and said forfeiture, if not otherwise paid, shall be collected by any justice of the peace of said township, as may be provided by law. (R. S. 1889, § 8456.)

SEC. 10257. Duties of outgoing and incoming officials.—If any township officer who is required by law to take the oath of office shall enter upon the duties of his office before he shall have taken such oath, he shall forfeit to the township the sum of twenty dollars, to be collected and applied as in the preceding section. Township officers shall hold their offices for two years, and until their successors are chosen or appointed and qualified. (R. S. 1889, § 8457.)

SEC. 10258. Same.—Whenever the term of office of any township officer shall expire, and others are elected or appointed and qualified as their successors, such successors shall, immediately after entering upon the duties of their office, demand and receive from his or their predecessors, or their legal representatives, all the books, papers and money under his or their control belonging to such office, and such books, papers and other property shall be delivered upon oath that the same are all the moneys, books, papers and other property under his control belonging to such township; duplicate receipts shall be given the outgoing officer for the same, who shall retain one copy and deliver the other to the township clerk, who shall charge the incoming officer with the value thereof. (R. S. 1889, § 8458.)

ARTICLE VI.

VACANCIES IN OFFICE AND MANNER OF FILLING THEM.

SECTION	SECTION
10259. Vacancies in office to be filled by township board.	10260. Warrant of appointment—notification to appointee.
	10261. Resignations, how accepted.

SEC. 10259. Vacancies in office to be filled by township board.—Whenever any township shall fail to elect the proper number of officers to which such township may be entitled, or when any person elected or appointed shall fail to qualify, or when any vacancy shall happen in any township office from any cause, it shall be lawful for the township board to fill such vacancy by appointment, and the person so appointed shall hold the office and discharge all the duties of the same during such unexpired term, and until his successor is elected or appointed and qualified, and shall

be subject to the same penalties as if they had been duly elected: *Provided*, that any vacancy in the office of justice of the peace or in the township board shall be filled by appointment of the county court. (R. S. 1889, § 8459.)

SEC. 10260. **Warrant of appointment—notification to appointee.** Whenever any appointment shall be made, as provided in the preceding section, the township board shall cause a warrant of appointment to be filed in the office of the township clerk, who shall immediately give notice to the person or persons appointed: *Provided*, that when the county court shall make such appointment they shall cause notice thereof, in writing, to be transmitted by the county clerk to the township clerk, who shall file the same and give notice to the appointee, as hereinbefore provided. (R. S. 1889, § 8460.)

SEC. 10261. **Resignations, how accepted.**—The township board may, at any legally convened meeting, for a good and sufficient cause shown to them, accept the resignation of any township officer: *Provided*, that in all cases where the action of the township board is required, as provided in the foregoing section, a majority of the members concurring therein, shall be taken as the action of the board. (R. S. 1889, § 8461.)

ARTICLE VII.

TOWNSHIP TRUSTEES AND THEIR DUTIES.

SECTION

10262. Collector to receive and pay over moneys—suits on default.
10263. Suits for collection of penalties.
10264. Duties of trustee and *ex officio* treasurer.

SECTION

10265. Money to be paid out only on order of township board—school districts not affected.
10266. Treasurer to settle annually, etc.—duty of board.

SEC. 10262. **Collector to receive and pay over moneys—suits on default.**—The township trustee and *ex officio* treasurer of each township shall receive and pay over all moneys raised therein for defraying township expenses: *Provided*, that before entering on the duties of his office he shall execute such bond as is required in section 10253; and in case of default, it is hereby made the duty of the township clerk to institute suit thereon, in the name of the township in any court of competent jurisdiction. (R. S. 1889, § 8462—o.)

SEC. 10263. **Suits for collection of penalties.**—The township trustee shall cause suit to be instituted in the name of the township for all penalties and forfeitures given by law to such township, in all cases where no other officer is specially directed to prosecute, and he may, with the consent of the township board, employ counsel to prosecute or defend

any suit to which such township is a party—such counsel fees to be paid out of the township funds not otherwise appropriated. (R. S. 1889, § 8463.)

SEC. 10264. **Duties of trustee and ex officio treasurer.**—He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part in the township, the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, and shall pay all warrants drawn on him by the board of school directors in his township out of the funds belonging to the district making the order, and he shall not pay any money out belonging to any other fund than that mentioned in the warrants, and he shall file with the township clerk on or before the day of the regular meeting of the township board in April a detailed statement of all money by him received and paid out, to whom and out of what fund, and the amount on hand, and at the expiration of his term of office he shall turn over to his successor all moneys, books and papers belonging to the office, and take duplicate receipts for the same, one to be filed with the township clerk, the other to be retained by himself. (R. S. 1889, § 8464, amended.)

SEC. 10265. **Money to be paid out only on an order of township board—school districts not affected.**—The township trustee and *ex officio* treasurer shall not pay out any moneys belonging to the township for any purpose whatever, except upon the order of the township board of directors, signed by the chairman of said board and attested by the township clerk: *Provided*, that nothing in this chapter shall be so construed as to change or interfere with any school district, the boundary lines of which are different from that of the municipal township as organized under the provisions of this chapter, nor with the payment of any school moneys upon proper vouchers. He shall receive from the township collector and the county collector or treasurer all road and bridge and other taxes due the township when collected by such officers, and shall receipt for the same, and shall account therefor in like manner as for other moneys in his hands belonging to the township. (R. S. 1889, § 8465.)

SEC. 10266. Treasurer to settle annually, etc., duty of board.—

The township treasurer shall, annually, between the first day and the tenth day of July of each year, settle with the township board and account for school moneys received, from whom and on what account, and the amount paid out for school purposes and for building purposes to the various school districts of the township. The township board shall examine the vouchers for such payments, and, if satisfied with the correctness thereof, shall certify the same, which certificate shall be *prima facie* a discharge of such liability of the treasurer for the funds expressed in the vouchers. The township clerk shall, on or before the fifteenth of July of each year, deliver to the county clerk a certified copy of said settlement, which shall constitute the required settlement by which the county clerk shall make his annual settlement with the state superintendent of public schools. (R. S. 1889, § 8466.)

ARTICLE VIII.

TOWNSHIP CLERKS AND THEIR DUTIES.

SECTION

- 10267. Duties of township clerk—he shall have care of records and may administer oaths to officers elect.
- 10268. Township clerk to be clerk of township board.
- 10269. Township clerk to return to county clerk list of justices and constables elect.

SECTION

- 10270. Penalty of clerk's refusal to perform his duties.
- 10271. Copies of papers filed with township clerk to be evidence in courts of record.
- 10272. Books and stationery, how procured—balance due townships.

SEC. 10267. Duties of township clerk—he shall have care of records and may administer oaths to officers elect.—The township clerk and *ex officio* assessor of each township shall have the custody and care of all records, books and papers belonging to his office; and he shall file in his office all certificates, oaths or other instruments of writings required by law to be filed in his office, and he shall have power to administer the oath of office to all township officers; and it is hereby made the duty of the township clerk to administer all necessary oaths which may be required in the transaction of any township business in the township of which he is clerk: *Provided*, that nothing herein shall be so construed as to deprive any other officer from administering said oath, as may be otherwise provided by law. (R. S. 1889, § 8467.)

SEC. 10268. Township clerk to be clerk of township board.—

The township clerk shall be the clerk of the township board of directors, and shall keep a true and correct record of all official acts and proceedings of said board of directors, in a book provided for that purpose at the

expense of the township, and to be kept in the office of the township clerk, subject to the inspection of any one desiring so to do, under the direction of the township clerk. (R. S. 1889, § 8468.)

SEC. 10269. Township clerk to return to county clerk lists of justices and constables elect.—The township clerk, immediately after the election or appointment of justices of the peace and constables, and after they shall have qualified, shall return to the county clerk of their respective counties the names of such justices and constables. (R. S. 1889, § 8469.)

SEC. 10270. Penalty of clerk's refusal to perform his duties.—If any township clerk shall willfully omit or refuse to perform any of the duties required of him by this chapter, he shall be adjudged guilty of a misdemeanor, and on conviction thereof, shall forfeit to the township the sum of twenty dollars, to be collected as provided by law. (R. S. 1889, § 8470.)

SEC. 10271. Copies of papers filed with township clerk to be evidence in courts of record.—Copies of all papers, duly filed in the office of the township clerk, and certified to be true and correct, shall be evidence in all courts of record in this state, and in all courts of inferior jurisdiction within this state, in like effect and manner as if the original were produced. (R. S. 1889, § 8471.)

SEC. 10272. Books and stationery, how procured—balances due townships.—It shall be the duty of the township clerk to procure, under the direction of the township board, and at the expense of the township, all necessary record books and other books and stationery for the use of the township. The clerk of the county court in any county having adopted township organization shall deliver to the clerk of each township therein all the records, papers, books or documents in his office that were placed in such office in pursuance of the provisions of the act repealing the township organization law, approved March 5, 1877, and it shall be the duty of the county court to issue a warrant to each and every township for an amount equal to the amount belonging to said township when said act was repealed, and any township back taxes collected for said township after said repeal, which may have been paid into the county treasury, and not appropriated for the benefit of said township since said repeal by the county court. (R. S. 1889, § 8472.)

ARTICLE IX.

THE TOWNSHIP BOARD OF DIRECTORS, AND ITS DUTIES.

SECTION

10273. Township board, by whom formed—its duties.
 10274. Meetings of the board, when and where held.
 10275. Claims against a township, how presented.
 10276. Audited accounts to be kept on file.

SECTION

10277. Township charges.
 10278. Money to be collected, how.
 10279. President of board to be chosen by members
 10280. Claims against townships, how collected.
 10281. Road labor and road-tax, how apportioned.
 10282. Expenses, how provided for.

SEC. 10273. **Township board, by whom formed—its duties.**—In each township in this state, organized under the provisions of this chapter, there shall be a board of directors, composed of the township trustee and members of the township board, whose duty it shall be: First, to audit all accounts of township officers for services rendered as such officers, except the township assessor, for services as such assessor; second, to audit all other accounts or demands legally presented to them against the township; third, to levy all taxes for township, road and bridge purposes, and all other duties provided by this chapter for the township board of directors to perform. (R. S. 1889, § 8473—p.)

SEC. 10274. **Meetings of board, when and where held.**—The township board of directors shall meet at the office of the township clerk for the purpose of transacting such business as may be by them deemed necessary, tri-annually, on the third Wednesday after the first Tuesday in April, the first Tuesday after the first Monday in July, and on the third Monday of November of each year, and at such other times as the interest of the township may require. (R. S. 1889, § 8474.)

SEC. 10275. **Claims against a township, how presented.**—Any person having a claim or account against the township may file such claim or account in the office of the township clerk, to be kept by the said clerk, and laid before the township board at their next meeting: *Provided, however,* that any person having a claim against the township may present said claim to the township board himself, or by an agent, at any legally convened meeting of said board; said board shall have the power to determine the legality or illegality of any claim or account against the township, and to reject said claim, or any part thereof, as to them appears just and proper; but in no case shall the township board be authorized to allow any claim, or any part thereof, until the claimant makes out a statement, verified by affidavit to the amount and nature of his claim, setting forth that the same is correct and unpaid, or, if any part thereof has been paid, setting forth how much. (R. S. 1889, § 8475.)

SEC. 10276. **Audited accounts to be kept on file.**—The accounts so audited, and those rejected, if any, shall be delivered to the township clerk, to be by him kept on file, and subject to the examination of any one desiring so to do. (R. S. 1889, § 8476.)

SEC. 10277. **Township charges.**—The following shall be deemed township charges: First, the compensation of township officers for their services rendered in their respective townships; second, contingent expenses necessarily incurred for the use and benefit of the township; third, the moneys authorized to be raised by the township board of directors for any purpose, for the use of the township. (R. S. 1889, § 8477—q.)

SEC. 10278. **Moneys to be collected, how.**—The moneys necessary to defray the township charges of each township shall be levied on the taxable property in such township, in the manner prescribed in the general revenue law for state and county purposes. (R. S. 1889, § 8478—r.)

SEC. 10279. **President of board to be chosen by members.**—The township board of directors shall, at their first meeting in each year after they have been elected and qualified, appoint one of their number as president of said board, who shall sign all orders and official acts of said board. (R. S. 1889, § 8479.)

SEC. 10280. **Claims against township, how collected.**—When any claim or account, or any part thereof, shall be allowed by the township board of directors, they shall draw an order upon the township trustee in favor of the claimant for the amount so allowed—said order to be signed by the president of said board, and attested by the township clerk and delivered to said claimant. (R. S. 1889, § 8480—s.)

SEC. 10281. **Road labor and road tax, how apportioned.**—The township board of directors shall have power to divide their townships into convenient road districts, and may, at their April meeting, change the same in such manner as the interests of the township may demand. (R. S. 1889, § 8481.)

SEC. 10282. **Expenses, how provided for.**—The township board of directors shall make out an account of the amount of money necessary to defray the township expenses during the next ensuing year; said account shall be made out not more than sixty nor less than twenty days prior to the meeting of the county court at which the assessment for county purposes is made; said account shall be signed by the president of the board, and attested by the clerk, and filed with the clerk of the county court on or before the first day of said court, who shall cause the same to be placed upon the tax-books of said township: *Provided*, that said ex-

(q) 123 Mo. 72.

(r) 123 Mo. 72.

(s) 72 Mo. 377.

penses shall not, together with the amount levied for road purposes and special bridge tax, exceed in any one year twenty cents on the one hundred dollars valuation; *and provided further*, that in counties having a population exceeding thirty-five thousand inhabitants said tax shall not exceed for any one year fifteen cents on the hundred dollars valuation, and until the next decennial census shall have been taken, said population shall be determined by multiplying the aggregate number of votes cast for the respective candidates for president in 1888 in said county by five, and the product thus obtained shall determine as to such population. (R. S. 1889, § 8482—t.)

ARTICLE X.

COMPENSATION OF TOWNSHIP OFFICERS.

SECTION

10283. Pay of officers.
10284. List of officers and their pay.

SECTION

10285. No township officer entitled to fees for administering official oaths.

SEC. 10283. **Pay of officers.**—The following township officers shall be entitled to compensation at the following rates for each day necessarily devoted by them to the services of the township in discharging the duties of their respective offices. (R. S. 1889, § 8483.)

SEC. 10284. **List of officers and their pay.**—The township clerk, as clerk, the township trustee, as trustee, members of the township board, and judges and clerks of election, shall each receive for their services one dollar and fifty cents per day: *Provided*, that the township clerk shall receive fees for the following, and not *per diem*, for serving notices of election, or each: For filing any instrument of writing, ten cents; for recording any order or instrument of writing, authorized by law, ten cents for every hundred words; for copying and certifying any record in his office, ten cents for every hundred words, to be paid by the person applying for the same; *and provided further*, that the township trustee as *ex officio* treasurer shall receive a compensation of two per cent. for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent. of all sums over said amount. (R. S. 1889, § 8484, amended.)

SEC. 10285. **No township officer entitled to fees for administering official oaths.**—No justice of the peace or other township officer, shall be entitled to any fee from any officer for administering the oath of office. (R. S. 1889, § 8485.)

ARTICLE XI.

COUNTY TREASURER, EX OFFICIO COLLECTOR, HIS DUTIES.

SECTION	SECTION
10286. County treasurer shall be collector, where—duties.	10290. Treasurer's salary and commissions.
10287. Annual settlements.	10291. Bonds of collectors under this article.
10288. Suits on treasurers' bonds	
10289. Appropriation of moneys recovered.	

SEC. 10286. County treasurer shall be collector, where—duties.—The county treasurer of counties having adopted or which may hereafter adopt township organization shall be *ex officio* collector, and shall have the same power to collect all delinquent personal property taxes, licenses, merchants' taxes, taxes on railroads and other corporations, the delinquent or non-resident lands or town lots, and to prosecute for and make sale thereof, the same that is now or may hereafter be vested in the county collectors under the general laws of this state. The *ex officio* collector shall, at the time of making his annual settlement in each year, deposit the tax-books returned by the township collectors in the office of the county clerk, and within thirty days thereafter the clerk shall make, in a book to be called the "back-tax book," a correct list, in numerical order, of all tracts of land and town lots which have been returned delinquent by said collectors, and return said list to the *ex officio* collector, taking his receipt therefor. (R. S. 1889, § 8486—u.)

SEC. 10287. Annual settlements.—At the meeting of the county court on the first Monday in March in each year, or at such other time as may be directed by law, the county treasurer shall make a full and complete settlement of his accounts, and exhibit his books and vouchers relating to the same, which settlement of his accounts, when accepted by the court, shall be entered of record by the county clerk. (R. S. 1889, § 8487.)

SEC. 10288. Suits on treasurers' bonds.—Whenever any county treasurer shall fail or refuse to pay over the public revenue when lawfully required to do so, the county court shall cause suit to be prosecuted on his bond, and the state auditor shall have the same power to prosecute suit against county treasurers on a copy of their bond as is allowed by law for prosecuting suits against county collectors. (R. S. 1889, § 8488.)

SEC. 10289. Appropriation of moneys recovered.—All moneys recovered in any such action shall be paid or appropriated for the use contemplated or directed by law. (R. S. 1889, § 8489.)

SEC. 10290. Treasurer's salary and commissions.—The county treasurer in counties adopting organization shall be allowed a salary by

the county court as at present provided by law; the county collector for collecting and paying over the same shall be allowed a commission of two per cent. on all corporation taxes, licenses, merchants' tax and tax on railroads, and five per cent. on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: *Provided*, he shall receive nothing for paying over money to his successor in office. (R. S. 1889, § 8490.)

SEC. 10291. **Bonds of collectors under this article.**—County treasurers, as *ex officio* county collectors of counties under township organization, shall be required to give bonds as other county collectors under the general revenue law. (R. S. 1889, § 8491.)

ARTICLE XII.

REVENUE—ASSESSMENT AND COLLECTION OF.

SECTION

- 10292. Lists of personal and real estate, how made out.
- 10293. State, county, township, school, bridge and other tax.
- 10294. Assessment roll deliverable to collector.
- 10295. Warrant to be annexed to roll.
- 10296. Warrant shall authorize, what.
- 10297. Collector's settlements—penalty.
- 10298. Auditor's instructions to county clerk.
- 10299. Assessment of property.
- 10300. Property to be assessed, how and where.
- 10301. Assessor to take oath.
- 10302. Assessment, how made.
- 10303. Assessor's tax book, how made out.
- 10304. Assessment lists to be filed with county clerk.
- 10305. Compensation of assessors.

SECTION

- 10306. Manner of collecting taxes.
- 10307. Levy and sale of goods and chattels in case of refusal to pay tax.
- 10308. Proceedings incident to sale.
- 10309. When property sells for more than the tax, overplus to be returned to whom.
- 10310. In case of removal, collector may levy on property of persons owing taxes wherever same may be found in the county.
- 10311. Collector's settlements, how made—collector's commissions—penalty.
- 10312. Surplus tax money, how held.
- 10313. Collector's credits for uncollectible assessments, how made.
- 10314. School taxes, how collected.

SEC. 10292. **Lists of personal and real estate, how made out.**—It shall be the duty of the county clerk of each county in this state, that has or hereafter may adopt township organization, to make out annually, for the use of the township collector of each township, correct lists of the property assessed, which lists shall be in alphabetical order, the names of the persons owing tax on personal property in each collector's district, the aggregate value of such property assessed to each person, and the amount of taxes due thereon. He shall also make out for the use of the township collector an abstract of all real property which is assessed, in numerical order, which shall show the name or names, if known, of the person or persons to whom each tract or lot is assessed, and the value of each tract or lot, and the amount of taxes due thereon, which list shall be made out in strict conformity with the forms and instructions furnished by the state auditor. (R. S. 1889, § 8492.)

SEC. 10293. **State, county, township, school, bridge and other tax.** The county clerk shall cause to be estimated and set down in separate columns, to be prepared for that purpose, in the copied assessment roll, opposite the several sums set down as the valuation of real and personal estate, the respective sums, in dollars and cents, to be paid as taxes thereon, stating separately the amount of state, county, township, school, bridge and other tax. (R. S. 1889, § 8493.)

SEC. 10294. **Assessment roll delivered to collector.**—The county clerk shall cause a copy of the assessment roll of each township in their respective counties, with the taxes extended thereon, to be delivered to the collector of such township, on or before the day in each year, as fixed by law, when taxes become due. (R. S. 1889, § 8494.)

SEC. 10295. **Warrant to be annexed to roll.**—To each assessment roll a warrant under the hand of the county clerk and seal of the court shall be annexed, commanding such collector to collect from the several persons named in the assessment roll the several sums mentioned in the last columns of such roll, opposite their respective names; the warrant shall direct the collector, out of the moneys collected, after deducting the compensation to which he may be lawfully entitled, to pay over to the county treasurer the state and county tax collected by him. He shall pay over to the township treasurer all school moneys collected by him, and all moneys collected for township expenses, and all moneys collected for road and bridge purposes. (R. S. 1889, § 8495.)

SEC. 10296. **Warrant shall authorize, what.**—In all cases the warrant shall authorize the collector, in case any person named in such assessment roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person, and it shall require all payments therein specified to be made by the day fixed by law for the delivery of the tax-book to the county treasurer. The county clerk shall notify the county treasurer that said books are completed, and shall furnish the treasurer with a statement setting forth the name of each collector, the amount of money to be collected and paid over for each purpose for which the tax is levied in each of the several townships. (R. S. 1889, § 8496.)

SEC. 10297. **Collector's settlements—penalty.**—The township collector of each township shall, at the term of the county court to be held on the first Monday in March in each year, make a final settlement of his accounts with the county court, at which time he shall pay over to the county treasurer and *ex officio* collector all moneys remaining in his hands, collected by him on state and county taxes, and shall at the same time make his return of all delinquent or unpaid taxes as required by law, and shall make oath before said court that he has exhausted all the remedies required

by law for the collection of said taxes. He shall also, on or before the twentieth day of March in each year, make a final settlement with the township board. If any township collector shall fail or refuse to make the settlement required by this section, or shall fail or refuse to pay over the state and county taxes, as provided in this section, the county court shall attach him until he shall make such settlement of his accounts, or pay over the money found due from him; and it shall be the duty of the said court to cause the clerk thereof to notify the state auditor and the prosecuting attorney of such county at once of the failure of such township collector to settle his accounts or pay over the money found due from him; and the state auditor and prosecuting attorney shall proceed against such collector in the manner provided in section 10311 of these statutes and such collector shall be liable to the penalties in said section imposed. (R. S. 1889, § 8497, amended, Laws 1891, p. 217.)

SEC. 10298. Auditor's instructions to county clerk.—It shall be the duty of the state auditor to make out and forward to the county clerks of the several counties that have or may hereafter adopt township organization for the use of such county clerks and other officers, suitable forms and instructions relating to the discharge of their duties, and all such instruction, shall be strictly complied with by said officers; he shall give his opinion and advice on all questions of doubt as to the true intent and meaning of the law pertaining to township organization. (R. S. 1889, § 8498.)

SEC. 10299. Assessment of property.—All personal property shall be assessed annually; real property shall be assessed as provided by law. (R. S. 1889, § 8499.)

SEC. 10300. Property to be assessed, how and where.—All real property shall be assessed in the township in which the same is situated, with the owner's name thereof, if known; if the owner's name is not known, then it shall be assessed as non-resident. (R. S. 1889, § 8500.)

SEC. 10301. Assessor to take oath.—Every assessor, before he enters upon the duties of his office, shall take and subscribe an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially discharge the duties enjoined upon him as such assessor. (R. S. 1889, § 8501.)

SEC. 10302. Assessment, how made.—The assessor or some suitable person empowered by him, shall, within the time prescribed by law, and after being furnished with the necessary blanks, proceed to take a list of the taxable property of his township and assess the value thereof in accordance with the provisions of the general laws of this state in relation to the assessment of real and personal property by county assessors, in all things pertaining to the discharging of his official duties, except when the

same may be inconsistent with the provisions of this article: *Provided*, that his compensation shall be such as is prescribed in this article for his services. (R. S. 1889, § 8502.)

SEC. 10303. **Assessors' books, how made out.**—Each *ex officio* township assessor shall, on or before the time prescribed by the general law, make out and deliver to the county clerk of his county, in tabular form and alphabetical order, in a book to be furnished by the county, the names of the several persons, companies or corporations in whose name any personal property, money or credits shall have been listed in his township, and in appropriate columns, opposite each name, the number and value of all articles of personal property listed according to law, and he shall in like manner, after having listed and valued the real estate in his township, make out and deliver to the county clerk of his county the assessment of all the lands and town lots within his township, properly entered in a land book to be furnished by the county, and to be made out in such form as is prescribed in the general law in relation to county assessors. (R. S. 1889, § 8503.)

SEC. 10304. **Assessment lists to be filed with county clerk.**—He shall file with the county clerk, in alphabetical order, within the time prescribed by law, all of the assessment lists taken by him, which lists shall be kept by the clerk as now provided by law: *Provided*, that all necessary blank lists, books and stationery shall be furnished by the county clerk, to be paid for out of the county treasury. (R. S. 1889, § 8504.)

SEC. 10305. **Compensation of assessors.**—He shall receive as compensation for his services, fifteen cents for each list taken by him; and for each tract of land or town lot assessed by him, and properly entered in the township land book, he shall receive ten cents, one-half to be paid by the county and one-half by the state, as now provided by law: *Provided*, that all the personal property listed belonging to any one individual, or company, or firm, shall constitute only one list, and all the land owned by the same person in any one section shall constitute but one tract, and all the land owned by the same person in any one block shall constitute but one lot, as to compensation. (R. S. 1889, § 8505.)

SEC. 10306. **Manner of collecting taxes.**—Every *ex officio* township collector, upon receiving the tax-book and warrant from the county clerk, shall proceed in the following manner to collect the same; and he shall call at least once upon the person taxed at his or her place of residence, if in the township for which such collector has been chosen, and shall demand payment of the taxes charged to him or her, on his or her property; for which, when paid, such receipt shall be given as is provided by law. (R. S. 1889, § 8506.)

SEC. 10307. Levy and sale of goods and chattels in case of refusal to pay tax.—In case any person shall refuse or neglect to pay the tax imposed, the collector shall levy the same by distraint and sale of the goods and chattels of the person who ought to pay the same. (R. S. 1889, § 8507.)

SEC. 10308. Proceedings incident to sale.—The collector shall give public notice of the time and place of sale, and of the property to be sold, at least fifteen days previous to the sale, by advertisement to be posted up in at least three public places in the township where such sale is to be made. The sale shall be by public auction. (R. S. 1889, § 8508.)

SEC. 10309. When property sells for more than the tax, overplus to be returned, to whom.—If the property distrained be sold for more than the amount of taxes and costs, the surplus shall be returned to the owner or the person in whose possession such property was when the distraint was made. (R. S. 1889, § 8509.)

SEC. 10310. In case of removal, collector may levy on property of persons owing taxes wherever same may be found in the county.—In case any person, upon whom any tax shall be assessed under the provisions of this chapter, in any township, shall have removed out of such township after such assessment, it shall be lawful for the collector of such township to levy and collect such tax off of the goods and chattels of the person assessed, within any township or city of the county to which said person may have removed, or in which he shall reside. (R. S. 1889, § 8510.)

SEC. 10311. Collector's settlements, how made—Commissions—penalty.—The township collector shall, on or before the fifth day of each month, make out and file in the office of the clerk of the county court a statement, in writing, showing the amount of taxes collected by him for state, county, school, road, township and all other purposes during the preceding month, which statement shall be sworn to by such township collector before the county clerk, or some other officer authorized to administer oaths. On or before the tenth day in each month the township collector shall, after deducting his commissions, pay over to the county treasurer and *ex officio* collector all state and county taxes collected by him during the preceding month, as shown by the sworn statement required by this section, and take duplicate receipts therefor, one of which he shall retain and the other he shall file with the county clerk; and the county clerk shall charge the treasurer with the amounts so receipted for, to be accounted for at the annual settlement; and the township collector shall, in like manner, on or before the 20th day of each month, pay over to the township trustee and *ex officio* treasurer, after deducting his commission, all township

taxes and funds of every kind belonging to said township collected by him during the previous month, and take duplicate receipts therefor, one of which he shall retain and the other he shall deposit with the township clerk, and the township clerk shall charge the township trustee and *ex officio* treasurer with the amount so receipted for; and the township collector shall likewise make annual settlement with the township board on or before the twentieth day of March in each year. He shall receive a commission of two and one-half per cent. on all moneys collected by him. If any township collector shall fail or refuse to file the statement required by this section, or, having filed such statement, shall neglect or refuse to pay over to the county treasurer and *ex officio* collector the state and county taxes collected by him during the previous month, as shown by said statement, the county clerk shall, immediately after such default, and not later than the fifteenth day of the month in which such statement was or should have been made, certify such fact to the state auditor and the prosecuting attorney of the county; and the state auditor and prosecuting attorney shall proceed against such defaulting township collector in the same manner as is provided by section 9256 for proceeding against defaulting county collectors or *ex officio* county collectors, and the said township collector shall forfeit his commission on all moneys collected and wrongfully withheld, and otherwise be liable to all the penalties imposed by said section 9256. Any county clerk failing to perform any of the duties devolving upon him by virtue of this section shall be liable to all the penalties inflicted by section 9256 for failing to perform the duties enumerated in sections 9255 and 9256; and it shall be the duty of the county clerk to certify a copy of such monthly statement to the state auditor within the time prescribed for certifying the statements of the county collectors and *ex officio* collectors; and *provided further*, that it shall be the duty of the *ex officio* collector to include in his monthly statement all such sums collected for the previous month as may have been paid to him by the township collectors up to the time of making his monthly statement, and not included in any previous statements; and *provided further*, that the *ex officio* collector shall include in his annual statements, as provided for in this chapter and in the general revenue law, the whole amount of taxes collected by the several township collectors of his county as shown by the annual settlements of such township collectors with the county court as herein provided for. (R. S. 1889, § 8511.)

SEC. 10312. **Surplus tax money, how held.**—Whenever any greater amount of taxes shall be assessed in any township than the township charges thereof, and its proportion of tax and county charges, the surplus shall be paid by the collector to the trustee of the township, who

shall hold the same until needed to pay township expenses. (R. S. 1889, § 8512.)

SEC. 10313. Collector's credits for uncollectible assessments, how made.—If the township collector shall be unable to collect any taxes charged in the tax-list, by reason of the removal or insolvency of the person to whom such tax may be charged, or on account of any error in the tax-list, he shall deliver to the county treasurer his tax-book, and shall make out and file with said treasurer, at the time of his settlement, a statement in writing, setting forth the name of the person charged with such tax, the value of the property, and the amount of tax so charged and the cause of the delinquency, and shall make oath before the county clerk, or some justice of the peace, that the facts stated in such statement are true and correct, and that the sums mentioned therein remain unpaid, and that he used due diligence to collect the same, which oath or affidavit shall be signed by the township collector; and upon filing said statement, the county treasurer shall allow the township collector credit for the amount of taxes therein stated, and shall apportion and credit the same on the several funds for which such tax was charged; and when he makes settlement with the county court, such statement shall be a sufficient voucher to entitle him to credit for the amount therein stated; but in no case shall any township collector, or county treasurer, be entitled to abatement on the resident tax-list until the statement and affidavit aforesaid are filed as required by this chapter. (R. S. 1889, § 8513.)

SEC. 10314. School taxes, how collected.—The township collector shall be required to draw or procure a plat of each school district or fractional part thereof in his township, and shall keep a true and correct account of all school moneys collected by him in each school district or fractional part thereof; and when said collector pays the moneys so collected by him to the township treasurer, he shall state the amount collected from each school district or fractional part thereof, and take duplicate receipts therefor, one of which he shall retain, and file the other with the township clerk. As soon as the school funds are apportioned the township treasurer shall apply to the county treasurer for the school moneys belonging to each school district or fractional part thereof, in his township, and the county treasurer shall pay over to him all of said school money, taking duplicate receipts therefor, one of which he shall file with the township clerk. The township treasurer shall safely keep such money until paid out upon the order of the board of directors of the various school districts in his township. When any school district is divided by township or county lines the district shall be considered in the township or county in which the school-house is located, and the township treasurer holding any money belonging to fractional parts of districts in

which no school-house is located shall pay over all such money to the township treasurer of the township in which the fractional part of the district having the school-house is located, taking duplicate receipts therefor, one of which shall be filed with the township clerk, and the township treasurer shall settle annually with the township board on or before the 20th day of March in each year. (R. S. 1889, § 8514, amended, Laws 1897, p. 214—v.)

ARTICLE XII.

SPECIAL DIVISIONS.

SECTION

10315. Clerk to be notified of his election.
10316. Relations of county and township collectors.
10317. Township organization may be abolished, how.

SECTION

10318. Board compelled to allow appeal, when.
10319. County board of equalization, how constituted.
10320. Rules to be observed—notice to property owners.

SEC. 10315. Clerk to be notified of his election.—At the first township election held in any new township formed in any county, or at the first township election to elect township officers after any county shall have adopted the township organization law of this state, the township clerk elected at such election shall be immediately notified of his election by the judges of election, and said clerk shall immediately qualify and enter upon his duty as such clerk. (R. S. 1889, § 8515.)

SEC. 10316. Relations of county and township collectors.—In all counties having or adopting township organization, the county collector shall continue to be the collector for such county or counties until after the assessment shall have been made by the township assessor, as provided in this chapter, and the tax-bills and tax-books shall be delivered to the township collector as required by the provisions of this chapter. (R. S. 1889, § 8516.)

SEC. 10317. Township organization may be abolished, how.—At any general election holden in this state, in any county having adopted township organization under this chapter, upon the petition of one hundred voters of the county, praying the county court to re-submit the question of township organization to the voters at said election, it shall be the duty of the county court to submit the question again at such election, in like manner as provided in article one of this chapter; and if it shall appear, after the canvass of the votes as provided in article one of this chapter, that a majority of all the votes cast at said election were against township organization, then such county shall be declared to be under the general laws of the state in relation to its local government, and to have rejected township organization, and the county court shall

at the first meeting thereafter, appoint such county officers as provided by law in counties not under township organization, and such officers, when so appointed, shall hold their offices and discharge the duties thereof in like manner as officers elected in counties never having adopted the provisions of this chapter. (R. S. 1889, § 8517.)

SEC. 10318. Board compelled to allow appeal, when.—In all counties in this state that have adopted or that may hereafter adopt township organization, if any township board, clerk or other officer thereof fail to allow an appeal in the cause when the same ought to be allowed, or if by absence, sickness or any other cause on his part, an appeal cannot be taken within time, the circuit court or other court having jurisdiction of such appeal, or judge thereof in vacation, on such fact satisfactorily appearing; may, by rule and attachment, compel such board or other officer to allow the same, and to return his proceedings in the suit, together with the papers required to be returned by him. (R. S. 1889, § 8518—w.)

SEC. 10319. County board of equalization, how constituted.—There shall be in each county in this state, except the city of St. Louis, a county board of equalization, which board shall consist of the county clerk, who shall be secretary of the same but have no vote, the county surveyor, the judges of the county court, and the county assessor, which board shall meet at the office of the county clerk on the first Monday in April of each year: *Provided*, that in any county having adopted township organization, the sheriff of said county shall be a member of said board of equalization. (R. S. 1889, § 8519.)

SEC. 10320. Rules to be observed—notice to property owners.—The following rules shall be observed by county boards of equalization: First, they shall raise the valuation of all such tracts or parcels of land and any personal property as in their opinion have been returned below their real value, according to the rule prescribed by this article for such valuation; but after the board shall have raised the valuation of such real estate, it shall give notice of the fact, specifying the property and the amount raised, to the persons owning or controlling the same, by personal notice through the mail, or by advertisement in any paper published in the county, and that said board will meet on the fourth Monday in April, to hear reasons, if any may be given, why such increase should not be made; second, they shall reduce the valuation of such tract or parcels of land, or any personal property, which, in their opinion, has been returned above their true value as compared with the average valuation of all the real and personal property of the county. (R. S. 1889, § 8520—x.)

(w) Appeal, rules. 75 A. 561.

(x) 134 Mo. 212; 70 Southwest Reporter, 470.

ARTICLE XIV.*

ROADS, HIGHWAYS AND BRIDGES.

SECTION

- 10321. Duties of township board— election of overseer—bond and security.
- 10322. Board to construct and repair bridges, when.
- 10323. County, when.
- 10324. Board authorized to levy tax for road purposes—poll-tax.
- 10325. Clerk shall furnish list of able-bodied males.
- 10326. Poll-tax and road-tax assessed, when.
- 10327. Road tax payable in money or labor.
- 10328. Overseer empowered to collect tax.
- 10329. Township board to furnish county clerk with delinquent tax-list.
- 10330. Duty of county court with reference to delinquent taxes.
- 10331. Guide-boards.
- 10332. Gauge-posts.
- 10333. Duties of overseer—compensation.
- 10334. Board to keep an account.
- 10335. Member of board shall not be interested in purchase of tools, materials, etc.—tools not to be loaned—penalty.
- 10336. Proceedings upon entering lands for material to be used for road purposes—person exempt from poll-tax, when.
- 10337. Caving of road along water-courses.
- 10338. County court may appropriate funds, when.
- 10339. Adoption of the contract system.
- 10340. Letting of contract, etc.
- 10341. Contract to be completed, when—utilizing labor.
- 10342. Duties of contractor, liable on bond.

SECTION

- 10343. Opening roads.
- 10344. Petition and notice.
- 10345. Remonstrances to be heard—duty of surveyor—commissioners to be appointed, when, etc.
- 10346. Board may establish new road, how.
- 10347. Appeals taken, how proceeded with.
- 10348. County court may authorize plats to be made—to be filed—expenses paid, how.
- 10349. As to incorporated cities and towns within a township.
- 10350. Roads on township and county lines.
- 10351. Appeals, how taken.
- 10352. County court to hear appeals, when—decision final, except.
- 10353. Width of roads—to be cleared of trees, etc.
- 10354. Obstructing roads, how punished—proceedings.
- 10355. Private roads may be established—proceedings.
- 10356. Copy of petition and notice to be served on land-owner.
- 10357. Commissioners' oath and duties.
- 10358. County court to order road established, when.
- 10359. In case proceedings are irregular.
- 10360. Damages assessed, how.
- 10361. Upon opening road owners to have time to erect fences.
- 10362. Failure to open road—penalty.
- 10363. Private roads to be free to public travel.
- 10364. Penalty on officers for failure to perform duty.

SEC. 10321. Duties of township board—election of overseer—bond and security.—The township board of directors shall immediately upon the passage and the taking effect of this act divide the township into convenient road districts and appoint a suitable person for road overseer of each district, who shall hold the office until the next regular township election, to be held thereafter. There shall be chosen at each biennial election in said township a road overseer for each district by the voters residing in such district, and outside of any incorporated town or village, who shall hold their office for two years until their successor is elected and qualified, who shall have control and jurisdiction over all public highways within their district outside of any incorporated town or village and shall work and keep the same in good order and repair. Overseers appointed or elected under this act shall within ten days thereafter file with the township clerk a written acceptance and enter into a bond of one thousand dollars, with one or more

*Revised bill.

securities, to be approved by the township board, and conditioned that they will collect, expend and pay over all moneys and taxes as may be required of them by law, and that they will otherwise discharge their duties according to law. The township board shall have power to fill any vacancy that may occur in any district by appointment. (Laws 1901, p. 254; amended Laws 1903, p. 272.)

SEC. 10322. Board to construct and repair bridges, when.—The township board of directors shall construct and keep in repair all bridges in their district costing less than \$50.00: *Provided*, whenever it shall be necessary in any road district to build a bridge, the cost of which exceeds \$25.00, the board shall advertise for bids by giving at least fifteen days' notice by five written notices posted in as many public places in said township, or publication in some newspaper published in the district, of the time and place of letting the contract. (R. S. 1889, § 8522, amended.)

SEC. 10323. County, when.—Whenever it shall be necessary in any township to build a bridge, the cost of which shall exceed fifty dollars, the township board of directors shall make out and cause to be presented to the county court a certified statement of the amount of money necessary for the construction thereof, and the amount so certified shall, if deemed proper by the said county court, be levied on the taxable property of the county, and collected in the same manner as other taxes are levied and collected, whereupon the county court shall cause the said bridge to be built by contract as provided by law. (R. S. 1889, § 8523, amended.)

SEC. 10324. Board authorized to levy tax for road purposes—poll-tax.—The township board of directors shall have power to assess upon all real estate and personal property in their township, made taxable by law, for state and county purposes, a sufficient tax to keep the roads and highways of their township in good repair, which tax shall be levied as follows: Upon all real and personal property made taxable by law, a tax of not to exceed fifteen cents on the one hundred dollars valuation, and upon every able-bodied male inhabitant residing in the township over twenty-one years of age, and under fifty years of age, except upon persons residing in incorporated cities, towns and villages, a poll-tax of not less than one dollar nor to exceed three dollars: *Provided*, all money collected for roads, highways and bridges shall be kept by the township treasurer as a district fund, and shall only be paid out on order of the overseer of the road district to which it belongs. (Laws 1901, p. 254.)

SEC. 10325. Clerk shall furnish list of able-bodied males.—The township clerk shall have prepared and furnished to the township board at their regular meeting in April in each year for the use of the road overseers a list of all able-bodied male persons between the ages of twenty-one and fifty years residing in the district. (Laws 1901, p. 254.)

SEC. 10326. Poll-tax and road-tax assessed, when.—The township board of directors shall, at their regular meeting in April of each year, assess the amount of poll-tax that each individual subject thereto shall be required to pay, and the amount of road-tax levied on each hundred dollars worth of real and personal property, including railroads, telegraph and telephone lines, subject to taxation in the township, and it shall be the duty of the township clerk, within twenty days thereafter, to make out for the use of the township board a true and correct list of all real estate and the names of the owners thereof, if known, in the township, and the amount of personal property assessed to each resident tax-payer and the amount of road-tax levied on such real [and] personal property and the name of each individual subject to a poll-tax and the amount of such poll-tax assessed against each individual, and shall certify the same to be a true and correct copy of all road-taxes for that year, and shall deliver the same to the president of the township board. It shall be the duty of the county clerk, within five days after the receipt (s) (of the receipts) of the certificate of the state auditor, of the valuation of the railroad, telegraph and telephone companies doing business in the county, to transmit to the township clerk of each township containing railroad, telegraph and telephone property, a certificate of the valuation and number of miles of such property in his township outside of the incorporated cities, towns and villages; which certificate shall be laid before the township board of directors, at a meeting called for that purpose, and it shall be the duty of said board to levy on such valuation a tax for road purposes the same as has been levied on other property in the township, which tax shall be extended on the several road tax-books of the township and collected in a like manner as the other road-tax of the township according to the number of miles, and amount of such property situated in such road district, to be ascertained by such board, said tax to be due and payable as soon as extended on said road tax-book. (Laws 1901, p. 254; amended, Laws 1903, p. 273.)

SEC. 10327. Road-tax payable in money or labor.—Every taxpayer, except railroads, telegraphs and telephones, shall pay to the road overseer of his district the amount of road-tax due for the current year, in money or labor, as designated by order of the township board, on or before the 15th day of May, and if in labor it shall be performed at the time [and] in the manner requested by the road overseer, and if in money

it shall be paid to the road overseer and placed to the credit of the road fund of the district. It shall be the duty of the road overseer receiving such tax, either in money or in labor, to properly receipt therefor and credit the amount on the road tax-book of the district. (Laws 1901, p. 254; amended, Laws 1903, p. 273.)

SEC. 10328. Overseer empowered to collect tax.—The road overseer shall have power to collect any road tax that may be due the district on refusal to pay the same as required in work or money in the same manner as the township collector is authorized to collect state, county and township taxes, and in addition to the mode provided, or that may hereafter be provided by law to collect delinquent taxes. Said overseer shall have power in the corporate name of such township to sue for and recover in any court of competent jurisdiction any delinquent taxes assessed under the provisions of this article, when he deems such proceedings necessary. (Laws 1901, p. 255.)

SEC. 10329. Township board to furnish county clerk with delinquent tax list.—The township board shall, on or before the first day of March of each year, have a list of all the delinquent road-tax on real estate for the previous year made out, which list shall be signed by the president and attested by the clerk and forwarded to the county clerk. (Laws 1901, p. 255; amended, Laws 1903, p. 275.)

SEC. 10330. Duty of county court with reference to delinquent taxes.—It shall be the duty of the county court to cause the delinquent road-tax list returned by the respective township boards to be levied upon the lands so returned and collected as the delinquent taxes of the county are levied and collected, when collected to be paid over to the township trustee of the several townships and credited to the road districts to which it belongs. (Laws 1901, p. 255.)

SEC. 10331. Guide-boards.—It shall be the duty of the road overseer to cause suitable guide-boards to be put up at such places as they may deem necessary in such manner as they may direct. (Laws 1901, p. 255.)

SEC. 10332. Gauge-posts.—The overseer shall erect and keep up a gauge-post at the ford of every creek or river within his district that becomes unfordable or impassable at the crossings of the public roads of the districts, which post shall be at low-water mark on which shall be inscribed in plain legible letters or figures the depth of low-water mark, together with a scale of feet showing the scale of feet above low-water mark to the height of which said stream is known to have risen, the cost of which shall not exceed the sum of one dollar and fifty cents. Such water-gauge shall be tested at least once a year, and if after testing the same it is found that the ford has washed out deeper, or bars formed,

so that said gauge is incorrect, it shall be the duty of the road overseer to reset the same, so as to mark the correct depth of the stream at such crossing. (Laws 1901, p. 255.)

SEC. 10333. Duties of overseer—compensation.—The road overseer shall use his best endeavors to keep the roads in his district in good repair the entire year, make an equitable application of the funds on all the roads in proportion to their utility, and do at least three-fourths of the grading prior to August first in each year. The overseer shall keep a full and correct record of all moneys received, showing from whom and on what account, and also of all moneys disbursed, to whom paid and for what purpose, and also shall keep an inventory of all tools, machinery and other property belonging to the district, and shall prepare annually on or before May first an itemized account of all receipts and expenditures for the past year, and such other information as the condition of the roads and the needs of the district as may be deemed of value, which report shall be submitted to the township board for its approval and filed in the office of the township clerk. Such road overseers shall receive such compensation for their services as shall be fixed by the township board, not to exceed the sum of two dollars per day. (Laws 1901, p. 256.)

SEC. 10334. Board to keep an account.—The said board shall keep a full and correct record of all moneys received, showing from whom and on what account, and also of all moneys disbursed, to whom paid and for what purpose, and also shall keep an inventory of all tools, machinery, and other property belonging to the district, and shall prepare annually on or before May 1st, an itemized account of all receipts and expenditures for the past year, and such other information as the condition of the roads and the needs of the districts as may be deemed of value, which report may be published as the board may direct and shall be placed on file in the office of the township clerk. (New section.)

SEC. 10335. Member of board shall not be interested in purchase of tools, materials, etc.—tools not to be loaned—penalty.—The overseer shall not employ any member of the township board nor enter into contract for road work, material, tools, teams, nor purchase any machinery or material for the use of the road district from a member of the board or a member of his own family, either directly or indirectly, nor in any way use the funds of the district so as to become the beneficiary in the disbursement of the same. The tools of the district shall not be loaned to any person or another district. No person shall vote at any election for road overseers for any district except the one in which he resides. Any person violating the provisions of this section shall be

guilty of a misdemeanor, and upon conviction fined in any sum not to exceed one hundred dollars. (Laws 1901, p. 256.)

SEC. 10336. Proceedings upon entering lands for materials to be used for road purposes—person exempt from poll-tax, when.—The overseer is hereby authorized to enter upon any land adjacent or near to any line or public road in his district for the purpose of opening any ditches for the drainage of the road or to procure any necessary material of earth, stone or timber for road purposes. The owner of such premises entered to be allowed a reasonable compensation for damages done or material taken: *Provided*, in case the overseer cannot agree with the owner or owners thereof, said overseer may appoint three freeholders to act as a jury, who shall be sworn and go upon the premises and assess the damages which may be caused by opening said ditches, or taking such material, which damages so assessed shall not exceed a fair remuneration therefor. The property shall not be disturbed or the proprietary rights of the owner therein divested. Shade or ornamental trees shall not be taken without the consent of the owner. No person shall be exempt from paying a poll-tax on account of not being able-bodied, unless he shall obtain a certificate from the township board granted at a meeting thereof on competent evidence. But he shall have the right to appeal from the decision of the board in the same manner as appeals are taken in actions before justices of the peace. (Laws 1901, p. 256.)

SEC. 10337. Caving of road along water-course.—In case the bank of a river, creek or other water-course, upon which a road is situated, caves or falls in so as to render free passage impracticable or unsafe for travel, the township board shall immediately appoint a surveyor who shall survey, locate and open a new road along said river bank, and appoint a board of commissioners of three freeholders to assess the damage caused by the establishment of said new road, who shall immediately assess such damages and make their report to the township board of directors at their next regular meeting thereafter: *Provided*, that if the owner or owners of the land so assessed be not satisfied with the damages so allowed, nothing in this section shall be so construed as to debar them from the privilege of proceeding to obtain further damages, as in other cases of opening, changing or establishing new roads as provided by law. (New section.)

SEC. 10338. County court may appropriate funds, when.—Whenever the citizens along the line of any public road in a district subscribe any sum not less than \$25 for grading, graveling or otherwise improving any portion of such road, and shall deposit the same with the township treasurer, the county court may appropriate a like amount for such

purpose out of any funds of the county not otherwise appropriated. (New section.)

SEC. 10339. **Adoption of the contract system.**—Whenever the inhabitants of any township in this state, having heretofore adopted, or which may hereafter adopt township organization, may desire to adopt the contract system of working the roads in such township, it may be accomplished in the following manner: Upon the reception of a petition setting forth the facts and signed by fifty resident householders of such township residing outside of any incorporated city, town or village, the township board of directors shall order an election held therefor, not more than forty days after the receipt of said petition, twenty days' notice of said election to be given by publication in some paper published in said township, if there be one, and if not, by at least twelve written or printed hand-bills posted in twelve public places in said township, and the vote therefor shall be by ballot. Those voting therefor shall have written or printed on their ballots "For the contract system," and those voting against shall have written or printed on their ballots "Against the contract system," and should a majority of the votes cast upon said proposition be for the contract system of working the roads, the township clerk shall declare by publication the adoption of said system in such township. The votes at such election shall be cast up and forwarded to the township clerk, who shall enter on the record of the township board all the proceedings respecting such election and the total vote, both for and against such system, and shall forward a transcript of such record to the county clerk of the county, who shall keep a copy of the same in a book kept for that purpose. All elections held under the provisions of this section shall be governed by the law controlling township elections. The provisions of this section shall apply only to counties under township organization. (New section.)

SEC. 10340. **Letting of contract, etc.**—Upon the adoption of the contract system of working the road, the township board of the township so adopting the same, shall, on or before the fifteenth day of April next following such adoption, make an order, duly entered of record, requiring the property-tax assessed for road purposes to be paid in money, and shall further enter of record an order constituting such township outside of incorporated cities, towns and villages therein, if there be any, a single road district. The said township board shall immediately give notice of a letting of the working of the roads in such township by contract publicly to the lowest and best bidder, with specification in such notice of the work to be done; said notice shall be given by at least ten written or printed hand-bills posted in at least ten public places in such township at least ten days before the letting of such contract. The township board

at the time set forth in the notices above provided for shall proceed to let the working of the roads in said township to the lowest and best bidder. The person or persons whose bid shall be accepted shall within ten days thereafter severally enter into bond with the township board in such amount and with such personal security as shall be acceptable to and be approved by said township board conditioned that they will faithfully perform the conditions and stipulations contained in said contract, and any breach of the conditions of said bond may be sued on in any court of competent jurisdiction in the name of the county in which such township is situated and to the use of such township road district. (R. S. 1889, § 8544, amended—y.)

SEC. 10341. Contract to be completed, when—utilizing labor.—The work provided for in the next preceding section shall be completed on or before the first day of September next after said letting thereof, and it shall be the duty of each contractor and he is hereby required to receive the labor of all persons subject to payment of poll-tax for work on roads and highways in the township to which they belong, and such persons shall work at least eight hours per day and shall each be entitled to a credit of one dollar for every day they shall so work, and the amount to be paid to said contractor under his contract shall be reduced and credited by the amount of labor so done as aforesaid: *Provided*, that said contractor shall have the power to dismiss said hands on their failure or refusal to do good and satisfactory work on such road. (R. S. 1889, § 8545, amended.)

SEC. 10342. Duties of contractor—liable on bond.—Any person with whom the board shall enter into written contract to do a certain specified work on the public roads shall be responsible on his bond as such contractor for the faithful performance of his said contract; and any contractor who shall willfully fail or neglect to keep any road under his care in good repair or shall in any manner fail to faithfully perform or discharge any of his duties, according to the terms of his contract, or shall willfully fail or refuse after five days' notice to repair any bridge or culvert which under the terms of the contract it is his duty to repair, shall be held responsible for any and all damages which may occur to persons or property by reason of such failure: *Provided*, that nothing herein contained shall prevent the contractor from pleading as a defense for such failure to perform his work in the time specified in the contract that the same was caused by unusual weather and that with ordinary care he could not have avoided such delay. (New section.)

SEC. 10343. Opening roads.—The township board of directors may lay out any new road or alter or discontinue any road when petitioned

for by not less than twelve householders in said township, and residing within three miles of the road proposed to be discontinued, altered or laid out; said petition shall set forth a description of the road and what part thereof is to be altered or discontinued, and if a new road, the names of owners' land, if known, over which the road is to pass, the point at which it is to commence, its general course, and the place at or near which it is to terminate, with not less than two intermediate points named on the line of said roads: *Provided*, that said proposed road shall run along government surveys whenever practicable. (R. S. 1889, § 8547, amended—z.)

SEC. 10344. **Petition and notice.**—Whenever twelve or more householders in any township determine to petition the township board for the alteration, discontinuance or laying out of any new road, they shall cause a copy of their petition and notice stating when said petition and notice shall be presented to the township board to be heard, to be posted up in three or more of the most public places in the township not less than twenty days before any action shall be had in reference to the petition. (R. S. 1889, § 8548—a.)

SEC. 10345. **Remonstrances to be heard—duty of surveyor—commissioners to be appointed, when, etc.**—The township board shall, when said petition is presented and publicly read, and upon proof of notice as required by the next preceding section, hear the remonstrance of any twelve or more householders residing in the township through which the said proposed road may run, and such witnesses as the respective parties may produce, concerning the public utility, practicability and costs of said proposed road; and if they shall be of opinion that said road ought to be established, they shall order a survey thereof to be made by the county or other surveyor, describing the routes by courses and distances and also land over which the road will pass; said surveyor shall take the relinquishment of the right of way to the township of all persons who may give such, and make report to the township board, in writing, at a time to be designated at the time they shall make said order of survey. He shall also state in his report the names of all persons over whose land said road may pass, who have not relinquished the right of way therefor, and the estimated costs of bridges that may be needed on the line of said proposed road and shall accompany said report with a plat or survey of said road. Upon the filing of said report by the surveyor, as aforesaid, if it appear to the board that any person or persons through whose land said proposed road will run have failed to relinquish the right of way for the same, and that said person or persons and the

(z) 73 Mo. 30; 40 A. 469; 47 A. 465.

(a) 73 Mo. 30; 40 A. 469; 47 A. 465; 61 A. 556.

petitioners cannot agree as to the damages sustained by reason of the location of said road on their lands, the board shall appoint three disinterested commissioners, who shall be householders in the same or an adjoining township to that through which said proposed road may be located, to assess the damages which the owners may severally sustain by reason of such appropriation, who, having viewed the property, shall forthwith return, under oath, such assessment of damages to the board, the damages allowed, the damages allowed each person to be stated separately—said report to be made at the time to be designated by the board at the time of appointing said commissioners. If, upon the report of the surveyor, as hereinbefore provided, it appear that all persons through whose land said proposed road shall pass have relinquished the right of way therefor, or upon the report of the surveyor and the assessment of damages for the right of way not relinquished by the owner or owners thereof, as hereinbefore provided, the board shall be satisfied that said road will be of public utility, it may order the damages to be paid out of the proper funds of the township, or by the petitioners for said road. Upon payment of the damages to the person or persons entitled thereto, or if he or they shall refuse to receive same, then upon payment thereof to the township trustee for his or their use, the board shall order the road to be opened, and the lands so condemned or relinquished as aforesaid shall become a highway until altered, changed or annulled by authority of law; and said commissioners shall each receive at the rate of one dollar and fifty cents per day for his services. If the petition pray the vacation of a public road or a part thereof, and no remonstrance thereto be made, as herein provided, the township board may proceed to vacate such road, or any part thereof, at the cost of the petitioners; but if a remonstrance thereto shall be filed, and the board, after considering the same, shall determine to vacate such road, or any part thereof, against the vacation of which the remonstrance was filed, the costs shall be paid by the parties remonstrating, and the original costs and damages for opening such vacated road shall be paid by the petitioners to those who paid the same: *Provided*, that if five years shall have elapsed since the original opening of the same, no such reimbursement shall be made. (R. S. 1889, § 8549—b.)

SEC. 10346. **Board may establish a new road, how.**—Whenever the township board of directors shall determine to lay out any new road or alter any old one, they shall incorporate such survey in an order signed by them, declaring such road so altered or laid out to be a public highway, which order, with the petition and plat of survey, shall be filed with the township clerk, whose duty it is to record the same, and within

ten days thereafter to forward a copy of such survey and plat to the clerk of the county court who shall record the same in a book to be kept for that purpose, and to be known as the county road book. In case the township board shall determine not to alter, discontinue or lay out any road in accordance with any petition presented to them, they shall note the fact on the back of the petition and file it with the township clerk, and all the proceedings in the cause shall then be dismissed and the costs thereof be adjudged against the petitioners or otherwise, as the board may determine. (R. S. 1889, § 8550—c.)

SEC. 10347. Appeals taken, how proceeded with.—Every appeal taken from the township board shall be made to the county court, which appeal shall be taken in thirty days, and the appellant shall serve the appellee, at least ten days before the first day of the term of the county court at which the cause is to be determined, with a notice, in writing, stating that an appeal has been taken from the judgment therein specified. The notice may be served by leaving a copy thereof with the township clerk, and said cause shall be determined at the first term of the appellate court next after the appeal allowed, unless said term shall begin within ten days, in which event said cause shall be tried and disposed of at the next succeeding term unless continued for cause. (R. S. 1889, § 8551.)

SEC. 10348. County court may authorize plats to be made—to be filed—expenses paid, how.—It shall be lawful for the county court of any county to empower and authorize the county surveyor of said county, under the direction of the township board of each township, to survey, locate and plat the public highways of each township; and when such plat shall have been completed and approved by the township board, it shall be filed in the office of the township clerk, together with the minutes and report of such survey, to be kept by such township clerk as a part of his official records, the expenses of such proceeding to be paid out of the road fund of the township. The said plat, minutes and reports, or a certified copy of the same, over the hand and seal of the township clerk, shall be *prima facie* evidence that road or roads therein contained or described have been constituted a public highway according to law. (R. S. 1889, § 8552—d.)

SEC. 10349. As to incorporated cities and towns within a township.—Where any city or town has or may become incorporated under a special charter, or under a general law authorizing cities to become incorporated, no requisition in labor or in money from the citizens thereof, or the property within said corporation, shall be required to improve roads in the country, different from the grant in the charter, but

(c) 47 A. 465; 57 A. 651.

(d) 130 Mo. 292.

they shall be required to work and pay a tax to improve the streets and roads, and such improvements as shall be specified in the charter, or within the limits of the incorporation, as long as the charter or corporation shall remain in full force; and in all counties contemplated in the provisions of section 9521, of article 4, chapter 151, of the Revised Statutes of Missouri, 1899, where money shall hereafter be collected as county taxes, upon property within any incorporated town or city, the county court shall, as such taxes are collected, and, as the trustees, council or other corporate authorities of such city or town shall make application to such county court, draw warrants upon the county treasurer, payable out of the road and bridge fund, to the treasurer of such town or city, for an amount bearing such proportion to the entire amount of the year's taxes so collected upon such property as the amounts annually appropriated for road and bridge purposes shall bear to the total county revenue for such year; and all such sums as paid out shall be expended upon the roads and streets of such town or city, as shall be directed by the trustees, council, or other corporate authorities thereof. (R. S. 1889, § 8553, amended, Laws 1893, p. 111—e.)

SEC. 10350. **Roads on township and county lines.**—Public roads may be established, altered, widened or vacated on township or county lines or from one township into another, in the same manner as other public roads, except that in such case the petition will be presented to the board of directors of each township interested, said petition and notice to be as in other cases, and signed by not less than twelve householders residing in either township within three miles of the road so to be altered, widened, located or laid out; whereupon it shall be the duty of the township boards of the several townships affected thereby to meet and act as one body in the same time and manner as in other cases in considering the petition, ordering a survey, and report appointment of commissioners to assess damages, and making all orders in reference to the alteration, widening or vacating of such road, and a majority of all such directors must concur in all such orders, and a copy of the final orders and plats and papers shall be filed and recorded in each of the counties and townships interested, and an appeal shall be allowed from their decision in the same manner and with like effect as is permitted in other cases under this article: *Provided*, that where a public road is proposed upon lines between a county under township organization and a county not under township organization, or to run from a county under township organization into a county not under township organization, then the proceedings in this section hereinbefore named shall be had directly before the county courts of the respective counties, and in like manner, and said county

court shall, instead of meeting as one body, order the clerks of said courts to certify a copy of the proceedings had, to be entered upon the court records in said counties, and each county clerk will certify a copy of the proceedings before the court for which he is clerk to the clerk of the county court of the other county, which said copies shall be recorded in the county court records of the said counties. (R. S. 1889, § 8554, amended—f.)

SEC. 10351. Appeals, how taken.—Appeals shall be allowed in all cases arising under this chapter upon the following conditions: First, the party applying for such appeal, or some person for him, shall make affidavit that the application for an appeal is not made for vexation or delay, but because he believes the appellant is injured by the judgment of the township board; second, the appellant, or some person for him, together with one or more solvent sureties, to be approved by the township board, must, within thirty days after the rendition of judgment, enter into a recognizance before such board to the adverse party in a sum sufficient to secure the payment of such judgment and the costs of the appeal, conditioned that the appellant will prosecute his appeal with due diligence to a decision, and that if on such appeal, the judgment of the board be affirmed, or upon a trial anew in the appellate court, judgment be given against him, he will pay such judgment, and that if his appeal be dismissed, he will pay the judgment of the township board, together with the costs of the appeal; third, the appeal must be allowed within thirty days after rendition of judgment. (R. S. 1889, § 8555.)

SEC. 10352. County court to determine disputes, appeal to circuit court, jury to ascertain damages.—The county court shall, at its first regular term thereafter, proceed to hear and determine all matters of dispute in said proceedings, saving to all land owners through whose lands said road may run, and who may not have given the right of way, the right to appeal to the circuit court of said county on all questions of law or fact. In all hearings in the county court and in the circuit court damages shall be ascertained by a jury of six disinterested freeholders. (Laws 1903, p. 275—g.)

SEC. 10353. Width of roads—to be cleared of trees, etc.—All public roads established under this article shall be not less than thirty nor more than sixty feet wide, to be determined by the township boards from time to time, according to the utility and necessity of such road. In cases where a road shall be widened it shall be done according to the provisions of this article for the opening and establishing new roads; and all public roads shall be cleared of trees and limbs of trees which

(f) 47 A. 465; 135 Mo. 471.

(g) 135 Mo. 471.

incommode horsemen and carriages; and no stumps in any public road shall exceed six inches in height; and wet grounds and small water-courses shall be causewayed or bridged in such manner as to enable carriages and horsemen to pass in safety. (R. S. 1889, § 8557.)

SEC. 10354. Obstructing roads, how punished—proceedings.—If any person or persons shall willfully or knowingly obstruct any public road by throwing or depositing Osage orange or other brush, trees or bushes in said road or on the sides or ditches thereof, or by fencing across the same, or by planting any hedge within the lines established for such road, or changing the location thereof, otherwise than is provided for by this article, or shall obstruct said road or highway in any other manner whatsoever, he or they shall each pay a fine of not less than twenty dollars for each offense, and each day such obstruction is permitted to remain after notice, shall be deemed and taken as a separate offense, to be recovered by indictment or by information before a justice of the peace; and upon trial of any such indictment or information, it shall only be necessary for the prosecution to prove that such road has been established by order of the township board or boards of the township or townships in which, or on the boundary line or lines of which, said road may be located, and that the same has been used as a public road. (R. S. 1889, § 8558—h.)

SEC. 10355. Private roads may be established—proceedings.—If any inhabitant of the state shall present a petition to the county court of any county acting under township organization setting forth that he or she is the owner of a tract or lot of land in such county, and that no public road passes through or touches it, and asking for the establishment of a private way of necessity from his premises to connect with some public road of the county at some convenient point, and shall describe the place where said private way is desired and the width desired, the court shall appoint three disinterested commissioners to view the premises and to mark out such private way and assess the damages to the owner or owners of the land through which it will pass. (R. S. 1889, § 8559, amended—i.)

SEC. 10355a. Circuit court to establish private way of necessity from county land, when.—If the prosecuting attorney of any county acting under township organization in this state, shall, by order of the county court of said county, present to the circuit court of said county a petition setting forth that such county is the owner of a tract or lot of improved land, in said county, and that no public road passes through or touches it, and praying said circuit court for the establishment of a

(h) 130 Mo. 292.

(i) 130 Mo. 292.

private way of necessity from said county tract or lot to connect with some public road of said county at some convenient point, and shall describe the place where said way is desired and the desired width thereof, said circuit court shall possess complete authority and jurisdiction to establish said proposed road and shall be governed in all proceedings relating to such proposed road by the statutes regulating like proceedings instituted by private persons in the county court; the provisions of which statutes are hereby extended to all proceedings instituted by counties under this section. (Laws 1901, p. 257.)

SEC. 10356. Copy of petition and notice to be served on landowner.—It shall be the duty of the petitioner, at least ten days before the presentation of the petition to the county court to cause a copy of the petition and notice of the day on which it will be presented to be served on the owner or owners of the land through which it is proposed to pass; but if the owner does not reside in the county, notice shall be given by publication thereof in any newspaper published in the county for four weeks prior to the presentation to the county court. (R. S. 1889, § 8560, amended.)

SEC. 10357. Commissioners' oath and duties.—The commissioners heretofore mentioned, before proceeding to discharge their duties, shall take and subscribe an oath, honestly and impartially to discharge their duties under the order of the county court, and shall then proceed to view the premises, and shall cause a road not less than fifteen nor more than twenty feet wide to be marked out so as to be convenient and to do as little injury as practicable to other persons, and shall make a report to the county court at its next term, stating the points of beginning and ending, courses, distances and width of said proposed road; and shall also make and report an assessment of the items of damages sustained by each person through whose land said proposed road passes, including the erection of fences and the kind of fences to be erected, if the land is already enclosed, and, in the opinion of the commissioners, the location of the road makes the erection of a fence or fences necessary. (R. S. 1889, § 8561, amended—j.)

SEC. 10358. County court to order road established, when.—When the report of the commissioners shall have been made, as provided in the preceding section, and the proceedings have been regular, and no objections have been made thereto, the county court shall order that the road be established according to the report, and render judgment against the petitioner in favor of each owner of real estate, for the amount of damages assessed in his favor by the commissioners, and that the petitioner shall pay the amount to the county treasurer for the

use of the person entitled thereto, and shall also order that the petitioner pay the necessary costs of the proceedings. (R. S. 1889, § 8562, amended—k.)

SEC. 10359. **In case proceedings are irregular.**—If the proceedings be found by the court to be irregular, new commissioners may be appointed with like powers and duties as the former commissioners. (R. S. 1889, § 8563, amended—l.)

SEC. 10360. **Damages assessed, how.**—If any person through whose land such road passes object on account of the amount of damages awarded to him, an issue shall be made up in said court and a jury be sworn to determine the amount of damages to which the objector is entitled, and judgment shall be given in conformity to such finding, and the order for the establishment of the road shall be made as above, and the costs of the trial shall be paid by the objector, if the award of the jury shall be the same or a less sum than that awarded by the commissioners; otherwise the costs shall be paid by the petitioner. (R. S. 1889, § 8564, amended.)

SEC. 10361. **Upon opening of road owners to have time to erect fences.**—The county court shall, at the time of giving judgment for the establishment of the road, specify the time when the possession shall be given by the owner, giving the owner of the land a reasonable time, not exceeding six months, to erect fences, if the commissioners' report shows that the fencing is required, and also time to gather growing crops, if any are growing at the time on the premises, which time shall be stated in the judgment. (R. S. 1889, § 8565, amended.)

SEC. 10362. **Failure to open road—penalty.**—If any owner of real estate against whom final judgment has been given, as designated in the preceding section, shall neglect or refuse to open said road within the time specified in the said judgment, he shall forfeit and pay to the person in whose favor judgment was given, five dollars per day as a penalty for each day that it remains unopened, to be recovered in an action of debt before any court having jurisdiction, and the county court shall have power, and it is hereby authorized, upon the application of the person interested, to issue its precept, directed to the officer of its court, to open said road immediately, and the costs of the proceedings shall be paid by the person so refusing to open said road: *Provided*, the damages shall have been previously paid to the county treasurer, as designated in this article. (R. S. 1889, § 8566, amended.)

SEC. 10363. **Private roads to be free to public travel.**—Such road, when established, shall be free to be traveled by all persons as a pub-

(k) 130 Mo. 292.

(l) 130 Mo. 292.



3 0112 061909773

lic road, and the county court shall have power, at any time, when it considers it of sufficient public utility, to adopt said road as a public road and have it kept in repair as other public roads. (R. S. 1889, § 8567, amended.)

SEC. 10364. **Penalty on officers for failure to perform duty.**—If any officer fail, refuse or neglect to perform any of the duties required of him by this chapter of the Revised Statutes, and all acts amendatory thereof, which have or hereafter may be passed, upon being requested so to do, by any person having no interest in the performance of such duty, he shall be liable to a fine of not less than ten nor more than five hundred dollars, to be recovered by civil action in any court in the county having jurisdiction, and in addition, may be removed from office by the township board, and any officer who shall knowingly and willfully violate any of the provisions of said chapter, and the amendments thereto, shall be liable to a fine of not less than ten nor more than five hundred dollars, to be recovered by indictment or information in any court having jurisdiction, and in addition shall be removed from office at the discretion of the township board. (R. S. 1889, § 8568.)